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PATENT TRADEMARK OFFICE

Attorney Docket No. 05725.0409-01  
Application Number 09/832,882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Roland DE LA METTRIE et al.

Application No.: 09/832,882

Filed: April 12, 2001

For: OXIDIZING COMPOSITION COMPRISING AND USES FOR DYEING,  
FOR PERMANENTLY RESHAPING OR FOR BLEACHING KERATIN  
FIBRES

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**REQUEST FOR CORRECTED PATENT APPLICATION PUBLICATION**  
**UNDER 37 C.F.R. § 1.221(b)**

On November 29, 2001, the Office published the above-identified application No. 09/832,882 as Publication No. US-2001/0044977-A1. The published application contains material mistakes that are the fault of the Office. Attached hereto is a copy of each relevant page of the originally filed application and a marked-up copy of the corresponding page of the published application containing the mistakes.

A mistake is material when it affects the public's ability to appreciate the technical disclosure of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. See C.F.R. § 1.221(b).

## LAW OFFICES

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status 030  
MCI/Tech Centre 1700  
Central Files



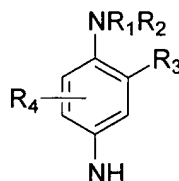
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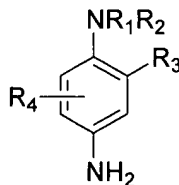
The mistakes, which are indicated in red ink on the relevant pages of the marked-up copy of the published application attached hereto, are as follows:

1. In paragraph 120, line 2, the published application is missing a full page of the as-filed application. Specifically, page 19 of the as-filed application should be inserted between "again," and "minutes." This mistake is material as it will affects the public's ability to appreciate the technical disclosure of the patent application publication and to determine the scope of the provisional rights that Applicants may seek to enforce upon issuance of a patent.

2. In paragraph 38, the published application recites as formula (II)



However, the originally filed application recites as formula (II):



The error is that the published application recites "NH" rather than "NH<sub>2</sub>." This mistake, therefore, results in the disclosure of an erroneous formula. Thus, this mistake is material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this

mistake is material and accordingly should be corrected.

3. In line 4 of paragraph 46, the published application recites "2-p-hydroxy-ethyloxy-para-phenylenediamine," whereas the originally filed application recites "2- $\beta$ -hydroxyethyloxy-para-phenylenediamine." The error is that the "p" should be the symbol " $\beta$ ." This mistake, therefore, results in the disclosure of an erroneous formula. Thus, this mistake is material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this mistake is material and accordingly should be corrected.

4. In line 3 of paragraph 47, the published application recites "andor," whereas the originally filed application recites "and/or." The error is that the symbol "/" is missing. This mistake, therefore, results in confusion as to whether "and," "or," or "and/or" is actually the proper conjunction. Thus, this mistake is material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this mistake is material and accordingly should be corrected.

5. In line 4 of paragraph 51, the published application recites "andor," whereas the originally filed application recites "and/or." The error is that the symbol "/" is missing. This mistake, therefore, results in confusion as to whether "and," "or," or "and/or" is actually the proper conjunction. Thus, this mistake is

material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this mistake is material and accordingly should be corrected.

6. In line 3 of paragraph 81, the published application recites "2, 5 or 7 a to a nitrogen" whereas the originally filed application recites "2, 5 or 7  $\alpha$  to a nitrogen." The error is that the first "a" should be the symbol " $\alpha$ ." This error therefore results in a lack of important technical information, specifically the position of the hydroxyl group. Thus, this mistake is material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this mistake is material and accordingly should be corrected.

7. In line 4 of claim 25, the published application recites "of claims 1 to 5" whereas the originally filed application recites "of claims 1 to 9." The error is that the "5" should be "9." This error therefore results in the claim being dependent on fewer claims than it actually should be. Thus, this mistake is material as it may affect the public's ability to determine the scope of the provisional rights that an applicant may later seek to enforce. For at least this reason, this mistake is material and accordingly should be corrected.

**Attorney Docket No. 05725.0409-01**

**Application Number 09/832,882**

For at least the foregoing reasons, Applicants request that the Office correct the mistakes identified above for which the Office is at fault in the published application, and forward to Applicants a copy of the corrected published application or at least a notification of the occurrence or predicted occurrence of the corrected publication once it has been corrected.

Applicants believe that no Petition or fee is due in connection with this Request. However, if any Petition or fee is due, please grant the Petition and charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON,  
FARABOW,  
GARRETT & DUNNER, L.L.P.

By: Thalia V. Warnement  
Thalia V. Warnement  
Registration No. 39,064

Date: January 29, 2002

LAW OFFICES

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TC 1700

**PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:**

In Re Application of: Ronald DE LA METTRIE et al.

Application No.: Not Yet Assigned

Group Art Unit: Not Yet Assigned

Filed: April 12, 2001

Examiner: Not Yet Assigned

For: OXIDISING COMPOSITION AND USES FOR DYEING, PERMANENTLY SETTING  
OR BLEACHING KERATIN FIBRES

- 
1. Rule 53(b) Divisional Application Transmittal
  2. Copy of prior Application No. 09/319,167 consisting of 31 pages including abstract
  3. Copy of Declaration/Power of Attorney (5 pages)
  4. Preliminary Amendment (7 pages)
  5. Check in the amount \$1,022.00

Dated April 12, 2001

Docket No.: 5725.0409-01

T.V. Warnement/J.K. MacAlpine/C. Woods - Mail Drop 318



(Due Date: 4/16/01)

DK-12  
4-16-01



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JAN 31 2002  
TC 1700

PATENT  
Customer Number 22,852  
Attorney Docket No. 5725.0409-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

Prior Application Art Unit: 1751 Prior Application Examiner: D. Hamlin

SIR: This is a request for filing a

☐ Continuation ☐ Continuation-in-Part ☒ Divisional Application under 37 C.F.R. § 1.53(b) of pending prior application Serial No. 09/319,167 filed June 2, 1999 of Roland de la Mettrie, Jean Cotteret, Arnaud De Labbey and Mireille Maubru for OXIDISING COMPOSITION AND USES FOR DYEING, PERMANENTLY SETTING OR BLEACHING KERATIN FIBRES

1. ☒ Enclosed is a complete copy of the prior application including the oath or Declaration and drawings, if any, as originally filed. I hereby verify that the attached papers are a true copy of prior application Serial No. 09/319,167 as originally filed on June 2, 1999, which is incorporated herein by reference.
2. ☐ Enclosed is a substitute specification under 37 C.F.R. § 1.125.
3. ☐ Enclosed is a Request for Non-Publication of Application and Certification Under 35 U.S.C. § 1.22(b)(2)(B)(i).
4. ☐ Cancel Claims [Text].
5. ☒ A Preliminary Amendment is enclosed.
6. ☒ The filing fee is calculated on the basis of the claims existing in the prior application as amended at 4 and 5 above.

Basic Application Filing Fee				\$710	\$ \$710.00
	Number of Claims		Basic	Extra Claims	
Total Claims	24	-	20	4 x \$18	72.00
Independent Claims	6	-	3	3 x \$80	240.00
<input type="checkbox"/> Presentation of Multiple Dep. Claim(s)				+\$270	
Subtotal					\$ 1,022.00
Reduction by 1/2 if small entity					-
TOTAL APPLICATION FILING FEE					\$ 1,022.00

7. ☒ A check in the amount of \$1,022.00 to cover the filing fee is enclosed.
8. ☒ The Commissioner is hereby authorized to charge any fees which may be required including fees due under 37 C.F.R. § 1.16 and any other fees due under 37 C.F.R. § 1.17, or credit any overpayment during the pendency of this application to Deposit Account No. 06-0916.
9. ☒ Amend the specification by inserting before the first line, the following new paragraph:  
  
This is a ☐ continuation ☒ division of application Serial No. 09/319,167, filed June 2, 1999, which is a National Stage of International Application No. PCT/FR98/02025 under 35 U.S.C. 371, filed September 22, 1998, all of which are incorporated herein by reference.
10. ☐ New formal drawings are enclosed.
11. ☒ The prior application is assigned of record to: L'Oreal S.A.
12. ☒ Priority of application Serial No. 97/12359, filed on October 3, 1997 in France is claimed under 35 U.S.C. § 119. A certified copy  
  
☐ is enclosed or ☒ is on file in the prior application.
13. ☐ A verified statement claiming small entity status  
  
☐ is enclosed or ☐ is on file in the prior application.
14. ☒ The power of attorney in the prior application is to at least one of the following: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsvold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zotter, Reg. No. 27,680; Dennis P. O'Reilley, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695; Robert D. Bajefsky, Reg. No. 25,387; Richard L. Stroup, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,619; Charles E. Lipsey, Reg. No. 28,165; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewris, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,907; Richard B.



Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Mullen, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,413; David M. Kelly, Reg. No. 30,953; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einaudi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Roger D. Taylor, Reg. No. 28,992; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,964; Richard V. Burgujian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,824; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,616; Bryan C. Diner, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanhon Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; James W. Edmondson, Reg. No. 33,871; Michael R. McGurk, Reg. No. 32,045; Joann M. Neth, Reg. No. 36,363; Gerson S. Panitch, Reg. No. 33,751; Cheri M. Taylor, Reg. No. 33,216; Charles E. Van Horn, Reg. No. 40,266; Linda A. Wadler, Reg. No. 33,218; Jeffrey A. Berkowitz, Reg. No. 36,743; Michael R. Kelly, Reg. No. 33, 921; James B. Monroe, Reg. No. 33,971; Doris Johnson Hines, Reg. No. 34,629; Allen R. Jensen, Reg. No. 28,224; Lori Ann Johnson, Reg. No. 34,498; David A. Manspeizer, Reg. No. 37,540; Michele C. Bosch, Reg. No. 40,525; and Thalia V. Warnement, Reg. No. 39,064.

15. ☒ The power appears in the original declaration of the prior application.
16. ☐ Since the power does not appear in the original declaration, a copy of the power in the prior application is enclosed.
17. ☒ Please address all correspondence to FINNEGAN, HENDERSON, FARABOW, GARRETT and DUNNER, L.L.P., 1300 I Street, N.W., Washington, D.C. 20005-3315, **Customer Number 22,852.**
18. ☐ Recognize as associate attorney \_\_\_\_\_
19. ☐ Also enclosed is \_\_\_\_\_

**PETITION FOR EXTENSION.** If any extension of time is necessary for the filing of this application, including any extension in the parent application, serial no. 09/319,167, filed June 2, 1999, for the purpose of maintaining copendency between the parent application and this application, and such extension has not otherwise been requested,

such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to our Deposit Account No. 06-0916. A duplicate copy of this paper is enclosed for use in charging the deposit account.

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: April 12, 2001

By: Thalia V. Warnement  
Thalia V. Warnement  
Reg. No. 39,064